

Department of Veterans Affairs

§ 21.4202

course, ratio of educational and general expenditures to full-time equivalency enrollment, etc.

(Authority: 38 U.S.C. 3473(d); Pub. L. 94-502, Pub. L. 95-202)

[44 FR 62498, Oct. 31, 1979, as amended at 48 FR 37985, Aug. 22, 1983; 51 FR 16316, May 2, 1986; 52 FR 45634, Dec. 1, 1987; 54 FR 4285, Jan. 30, 1989; 54 FR 34984, Aug. 23, 1989; 55 FR 28027, July 9, 1990; 57 FR 29800, July 7, 1992; 61 FR 20728, May 8, 1996; 61 FR 26114, May 24, 1996; 61 FR 29296, June 10, 1996; 62 FR 55760, Oct. 28, 1997; 63 FR 34129, June 23, 1998]

§ 21.4202 Overcharges; restrictions on enrollments.

(a) *Overcharges.* The Department of Veterans Affairs may disapprove a school for further enrollments, when the school charges or receives from a veteran or eligible person tuition and fees that exceed the established charges which the school requires from similarly circumstanced non-veterans enrolled in the same course. See § 21.4207.

(Authority: 38 U.S.C. 3690)

(b) *Restrictions on enrollments.* The Department of Veterans Affairs will disapprove a course for further enrollments or reenrollments and will discontinue educational assistance allowance to veterans or eligible persons already enrolled when one or more of the following conditions exist, and the conditions result in a substantial pattern of veterans or eligible persons or both receiving educational assistance allowance to which they are not entitled. If one or more of the following conditions exist at a school, but there is no pattern of overpayments of educational assistance allowance, the Department of Veterans Affairs will discontinue payments only to the affected veterans and eligible persons, and will disapprove new enrollments.

(Authority: 38 U.S.C. 3690(b))

(1) The school has willfully and knowingly submitted a false report or certification concerning a student or his or her course of education which has or could result in an improper payment of allowances.

(2) The school has willfully and knowingly failed to report to the Department of Veterans Affairs excessive absences, discontinuance, or interrup-

tion of education, which has resulted or could result in improper payment of allowances.

(3) The school through gross negligence has submitted improper or incorrect reports which have resulted or could result in improper payment of allowances. This condition will not be found to exist where:

(i) The improper report occurs only in an isolated instance or instances; or

(ii) It is the first occurrence and the school has not been previously notified in writing; or

(iii) The improper report or reports represent a very small proportion of the reports submitted by the school and may be attributed to clerical errors and are shown not to be the result of failure upon the part of the school to provide and maintain a recording and reporting procedure which under normal circumstances would result in proper reports to the Department of Veterans Affairs.

(4) The Department of Veterans Affairs has notified the school and the State approving agency in writing of a violation of a provision of the law or of failure of a course to meet the specific requirements of law other than approval criteria. The school has:

(i) Failed to correct the situation within 60 days (or 90 days if the director of the Department of Veterans Affairs facility of jurisdiction determines additional time is warranted), or

(ii) Has knowingly and willfully repeated the violation.

(5) The school, after having been disapproved under paragraph (a) of this section for the enrollment of any veteran or eligible person not already enrolled therein, has willfully and knowingly repeated the overcharge.

(6) The school fails or refuses to make available for examination to duly authorized representatives of the Government records and accounts pertaining to the education of veterans and eligible persons enrolled therein under Chapters 34 and 35.

(7) The requirements of §§ 21.4250, 21.4253, 21.4254, 21.4261 and 21.4264 are not being met in respect to a substantial number of veterans and eligible persons.

(8) The Department of Veterans Affairs has given written notice to the

state approving agency and the school as to specific violations:

(i) Within 60 days following the notice, or

(ii) Within 90 days following the notice when the Director of the Department of Veterans Affairs facility of jurisdiction determines that conditions warrant allowing additional time to take corrective action.

(Authority: 38 U.S.C. 3690(b))

(c) *Restrictions; proprietary schools.* Enrollment will not be approved for any veteran or eligible person under the provisions of Chapter 34 or 35 respectively, in any proprietary school of which the veteran or eligible person is an official authorized to sign certificates of enrollment or monthly certificates of attendance, an owner or an officer.

[31 FR 6774, May 6, 1966, as amended at 32 FR 13403, Sept. 23, 1967; 37 FR 6679, Apr. 1, 1972; 39 FR 43221, Dec. 11, 1974; 43 FR 35300, Aug. 9, 1978; 48 FR 37987, Aug. 22, 1983; 49 FR 5115, Feb. 10, 1984]

EFFECTIVE DATE NOTE: At 63 FR 35831, July 1, 1998, § 21.4202 was amended by removing and reserving paragraphs (a) and (b), effective July 31, 1998.

§ 21.4203 Reports—requirements.

(a) *General.* All the reports required by this paragraph shall be in a form specified by the Secretary.

(1) Except as provided in paragraph (a)(2) of this section each educational institution, veteran and eligible person shall report without delay such information on enrollment, entrance, re-entrance, change in the hours of credit or attendance, pursuit, interruption and termination of attendance of each veteran or eligible person enrolled in an approved course as the Secretary may require and using a form specified by the Secretary. See paragraphs (b) through (h) of this section.

(2) An educational institution may delay in reporting the enrollment or reenrollment of a veteran or an eligible person until the end of the term, quarter, or semester when—

(i) The veteran or eligible person is enrolled in a program of independent study;

(ii) The veteran or eligible person is pursuing the program on a less than half-time basis;

(iii) The educational institution has asked the Director of the VA facility of jurisdiction in writing for permission to delay in making the report; and

(iv) The Director of the VA facility of jurisdiction has determined that it is not feasible for the educational institution to monitor interruption or termination of the veteran's or eligible person's pursuit of the program.

(3) An educational institution which disagrees with a decision of a Director of a VA facility as to whether it may delay reporting enrollments or reenrollments as provided in paragraph (a)(2) of this section may ask to have that decision reviewed by the Director, Vocational Rehabilitation and Education Service. That request must be made in writing to the Director of the VA facility within one year of the date of the letter notifying the educational institution of the original decision.

(4) An educational institution which, under paragraph (a)(2) of this section, is delaying the reporting of the enrollment or reenrollment of a veteran shall provide the veteran with notice of the delay at the time that the veteran enrolls or reenrolls.

(5) In addition, educational institutions must—

(Authority: 38 U.S.C. 3685; Pub. L. 99-576)

(i) Verify enrollment for each veteran and eligible person receiving an advance payment; and

(ii) Verify the delivery of advance payment check and education loan check for each veteran and eligible person receiving an advance payment or loan.

(6) Nothing in this section or in any section in 38 CFR part 21 shall be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.

(Authority: 38 U.S.C. 3680(d), 3684, 3685, 3698; Pub. L. 95-202, Pub. L. 96-466; Pub. L. 99-576)

(b) *Certifications of enrollment.* All the reports required by this paragraph shall be in a form specified by the Secretary.